

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ADVANCED FIBER TECHNOLOGIES (AFT) TRUST,)	
)	
<i>Plaintiff/Counter-Defendant,</i>)	Civil Action No.:
)	1:07-CV-1191
v.)	
)	LEK/DRH
J&L FIBER SERVICES, INC.,)	
)	
<i>Defendant/Counter-Plaintiff.</i>)	ORAL ARGUMENT
)	REQUESTED
)	

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT OF VALIDITY

To all parties hereto and their attorneys of record:

PLEASE TAKE NOTICE that Plaintiff Advanced Fiber Technologies (AFT) Trust, by and through its undersigned counsel and pursuant to Rule 56 of the Federal Rules of Civil Procedure, hereby moves this Court on November 6, 2009, or as soon thereafter as counsel can be heard in the courtroom of Hon. Lawrence E. Kahn, United States District Court in the Northern District of New York, for entry of summary judgment of validity of U.S. Patent No. RE 39,940.

This Motion for Summary Judgment is based on this Motion, the accompanying Memorandum of Law, Statement of Material Facts, Declaration of Brett M. Hutton dated October 1, 2009 and Exhibits A-Z, and such other evidence and argument that the court may consider.

Request for Oral Argument

Plaintiff Advanced Fiber Technologies (AFT) Trust requests the opportunity to present oral argument regarding this Motion.

WHEREFORE, Plaintiff Advanced Fiber Technologies (AFT) Trust respectfully requests this Court enter an Order dismissing Defendant's counterclaim and defense of invalidity.

Respectfully submitted,

Dated: October 1, 2009

/s/ Nicholas Mesiti
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